

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF RHODE ISLAND

* * * * * C.R. NO. 15-120JJM
*
UNITED STATES OF AMERICA *
*
VS. * AUGUST 6, 2018
* 10:00 A.M.
*
LOUIS MARANDOLA, et al *
*
* * * * * PROVIDENCE, RI

BEFORE THE HONORABLE JOHN J. McCONNELL, JR.,
DISTRICT JUDGE

(Restitution Hearing)

APPEARANCES:

FOR THE GOVERNMENT:

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FOR DEFT. MARANDOLA:

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FOR DEFT. McCAFFREY:

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FOR DEFT. MARZIALE:

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FOR DEFT. MOHAMED:

RUI P. ALVES, ESQ.
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Court Reporter:

Karen M. Wischnowsky, RMR-CRR

1 6 AUGUST 2018 -- 10:00 A.M.

2 THE COURT: Good morning, everyone. We're here
3 this morning in the case of the United States versus
4 Louis Marandola, Criminal Action 15-120, and we're here
5 on the issue of restitution.

6 Would counsel identify themselves for the
7 record.

8 MS. HEBERT: Sandra Hebert for the United
9 States.

10 MR. TRAINI: Anthony Traini for Brian McCaffrey.

11 MR. VOCCOLA: Your Honor, Joseph Voccola
12 representing Mr. Marziale.

13 MR. KEABLE: Your Honor, Cale Keable on behalf
14 of Sierra Pacific Mortgage Company.

15 MR. WILDENHAIN: Chris Wildenhain on behalf of
16 Sierra Pacific Mortgage.

17 MR. RYAN: Good morning, your Honor. James Ryan
18 here for Mr. Devereaux in connection with
19 Mr. Marandola.

20 THE COURT: Great. Ms. Hebert, why don't you
21 come forward and fill us in on where we are and what's
22 happening.

23 MS. HEBERT: Yes, your Honor. So the Defendants
24 that were outstanding after the last hearing as to the
25 question of restitution were Defendant Marandola,

1 Defendant McCaffrey and Defendant Marziale.

2 And as I understand it today is that Defendant
3 McCaffrey and Sierra Pacific have reached an agreement,
4 and the other restitution owed with respect to
5 Defendant McCaffrey was the \$34,558.76 to the Federal
6 Housing Administration.

7 I believe that Defendant Marziale and Sierra
8 Pacific are still in negotiations but are very close.
9 I can maybe let Mr. Voccola speak to that more
10 precisely.

11 And then there are four other victims to whom
12 Mr. Marziale owes restitution; and that would be the
13 FHA, Mr. Doug Lopez, Mr. Roberto Concepcion and
14 Mr. Luis Sepulveda.

15 And then with respect Defendant Marandola, I
16 spoke to Mr. Devereaux this morning, and he was having
17 difficulty communicating with Defendant Marandola. He
18 did communicate with him last night.

19 As I understand it, Defendant Marandola and
20 Sierra Pacific have an agreement. They need to
21 memorialize that agreement, and Mr. Devereaux needs to
22 get Defendant Marandola's agreement to not be here in
23 person.

24 And so he, I believe, was going to have Mr. Ryan
25 ask for an additional two weeks. I think Mr. Devereaux

1 had a conflict as well this morning, and I told him I
2 would not be opposing his request for another two
3 weeks.

4 THE COURT: Okay. Don't go away. Let's start
5 with Mr. Marandola's motion.

6 Mr. Keable, do you have any objection to the
7 motion to continue Mr. Marandola's restitution hearing
8 for two weeks?

9 MR. KEABLE: No objection, your Honor.

10 THE COURT: So that motion will be granted
11 without objection from the Government or from Sierra
12 Pacific.

13 Mr. Keable, are we prepared to put
14 Mr. McCaffrey's restitution agreement --

15 MR. KEABLE: We are, your Honor.

16 THE COURT: Why don't you come forward.

17 Mr. Traini, why don't you come forward.

18 Ms. Hebert, why don't you stay with us.

19 MR. TRAINI: Good morning, your Honor.

20 THE COURT: Good morning, Mr. Traini. How are
21 you? First, has your client waived his right to be
22 present?

23 MR. TRAINI: He's here, your Honor.

24 THE COURT: Oh, he's here?

25 MR. TRAINI: Mr. McCaffrey's in the courtroom.

1 THE COURT: Welcome.

2 MR. TRAINI: Your Honor, we have reached an
3 agreement subject to the other agreement that we worked
4 out with the Government that if we were able to work
5 something out directly with Sierra Pacific, the
6 Government would not object to that. And we now have
7 an agreement.

8 Mr. Keable and I have agreed that the amount of
9 restitution assignable to Mr. McCaffrey with respect to
10 Sierra Pacific will be \$85,000. He will be severally
11 liable for that amount.

12 He will not be jointly and severally liable for
13 any other amount payable to Sierra Pacific with anyone
14 else, and Sierra Pacific has agreed also that this will
15 resolve any civil liability that Mr. McCaffrey may have
16 to them with respect to this particular matter. So
17 there won't be any more liability that they will try to
18 attach to him, and probation will deal with the usual
19 collection process.

20 With respect to the FHA \$34,558.76, that was the
21 correct figure Ms. Hebert gave you. I think, and Sandy
22 can correct me, but I think Mr. McCaffrey's jointly and
23 severally liable on that one with I think everybody.

24 So that's my understanding of our agreement,
25 your Honor. And if the Government agrees to that and

1 Mr. Keable agrees to that, we should be all set.

2 THE COURT: Any objection, Mr. Keable?

3 MR. KEABLE: No objection, your Honor.

4 THE COURT: Any objection, Ms. Hebert?

5 MS. HEBERT: No, your Honor.

6 THE COURT: And I think the Court has already
7 made notice that Mr. McCaffrey is present with us, but
8 he's speaking through his attorney having agreed to
9 this.

10 The judgment for restitution against
11 Mr. McCaffrey will be amended such that he will be
12 severally liable to Sierra Pacific in the amount of
13 \$85,000 and he will be jointly and severally liable
14 along with all other Defendants named in this case to
15 FHA in the amount of \$34,558.76.

16 Anything further?

17 MR. KEABLE: Thank you, your Honor.

18 MR. TRAINI: Thank you, your Honor.

19 THE COURT: Mr. Voccola, do you want to come
20 forward and we can talk about Mr. Marziale.

21 MR. VOCCOLA: Good morning, your Honor.

22 THE COURT: Good morning, Mr. Voccola. How are
23 you?

24 MR. VOCCOLA: Very well. Thank you. I've had
25 the opportunity, your Honor, over the last week or

1 couple of weeks to speak to Mr. Keable about resolving
2 what's owed to his client, and I think we're making
3 some progress.

4 Mr. Marziale's family had tried to pull together
5 a certain -- a lump sum. I made that offer to
6 Mr. Keable, and there's a new offer today. I spoke to
7 the family again. And he's going to be bringing that
8 offer back to his client. We're trying to have a
9 lump-sum payment to extinguish whatever's owed to his
10 client.

11 THE COURT: Mr. Keable?

12 MR. KEABLE: That's correct, your Honor.
13 They've made an offer. Sierra Pacific has countered.
14 They have raised their offer today. I need to bring
15 that back to my client.

16 There's been a representation that the Defendant
17 is on disability. I'm sure if Mr. Voccola gives me
18 some evidence of that, that might go a long way to
19 getting my client to agree to take a lump sum now
20 rather than have a larger number later.

21 THE COURT: Ms. Hebert, I assume that the
22 Government has no objection with the discussions that
23 are going on or the settlement talks between Sierra
24 Pacific and Mr. Marziale as to Sierra Pacific.

25 MS. HEBERT: No objection, your Honor, but

1 perhaps if the Court and Mr. Voccola's amenable, we
2 could ask -- the Government could ask that the
3 restitution order with respect to the four other
4 victims be entered today; as to the four other victims
5 applicable to Mr. Marziale, that we enter an order
6 today.

7 THE COURT: What's that amount?

8 MS. HEBERT: You want me to go through each one?
9 So the FHA --

10 THE COURT: Let's see -- no need to do it unless
11 we're going to have an agreement.

12 MR. VOCCOLA: If we could just look at it, your
13 Honor, one moment.

14 THE COURT: Absolutely.

15 (Counsel confer)

16 MR. VOCCOLA: No problem, your Honor.

17 THE COURT: Ms. Hebert, why don't you put on the
18 record what that agreement is as to these Defendants.
19 And then would it make sense for us to continue
20 Mr. Marziale's to the same time as Mr. Marandola's?
21 And we're assuming that both of those will go away
22 because it sounds like agreement, and we'll either do
23 it by -- we'll do it some way or another.

24 Does that make sense as to Mr. Marziale's
25 restitution order as to Sierra Pacific?

1 MS. HEBERT: Yes, your Honor, as long as it's
2 okay that we enter the others without Mr. Marziale
3 present. His appearance is waived, I believe.

4 THE COURT: Does he waive his appearance,
5 Mr. Voccola?

6 MR. VOCCOLA: Yes, he does, your Honor.

7 THE COURT: Okay. Great. Then why don't you
8 state what that agreed-to judgment for restitution
9 amount will be as to which victims.

10 MS. HEBERT: As to the FHA, joint and several
11 with all other named Defendants, \$34,558.76; as to
12 Mr. Doug Lopez, joint and several with Defendant Louis
13 Marandola, amount of \$1,351.79; as to Mr. Roberto
14 Concepcion, joint and several with Defendant Marandola,
15 \$3,659.14; as to Mr. Luis Sepulveda, joint and several
16 with Defendant Marandola, \$3,013.55.

17 THE COURT: Any objection, Mr. Voccola?

18 MR. VOCCOLA: No, your Honor.

19 THE COURT: The judgment and restitution as to
20 Mr. Marziale shall be amended as stated by the
21 Government as to each of those victims. It will be
22 left open as to Sierra Pacific, and that determination
23 of restitution will be continued for two weeks at the
24 same time as the Sierra Pacific issue as to
25 Mr. Marandola.

1 Ms. Hebert, do we have an agreement as to FHA as
2 to Mr. Marandola that can enter or should we just wait
3 and do that at once?

4 MS. HEBERT: I think we need to wait, your
5 Honor. I don't feel comfortable representing that
6 Mr. Devereaux and I have an agreement.

7 THE COURT: Great. Thank you.

8 Anything further, folks, that we can handle on
9 this matter while we're here?

10 MS. HEBERT: No, your Honor.

11 THE COURT: Great. Thank you, all. We'll stand
12 adjourned.

13 (Adjourned)

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C E R T I F I C A T I O N

I, Karen M. Wischnowsky, RPR-RMR-CRR, do
hereby certify that the foregoing pages are a true and
accurate transcription of my stenographic notes in the
above-entitled case.

August 10, 2018

Date

/s/ Karen M. Wischnowsky

Karen M. Wischnowsky, RPR-RMR-CRR
Federal Official Court Reporter